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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,358	03/31/2004	Edward K. Y. Jung	SE1-0013-US	1749

80118 7590 02/09/2011
Constellation Law Group, PLLC
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EXAMINER

SURVILLO, OLEG

ART UNIT	PAPER NUMBER
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2442

MAIL DATE	DELIVERY MODE
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02/09/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/816,358	Applicant(s) JUNG ET AL.	
	Examiner OLEG SURVILLO	Art Unit 2442	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 February 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-39.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 12. ☒ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). See ContinuationSheet
 13. ☒ Other: See Continuation Sheet.

/Oleg Survillo/
Examiner, AU 2442

/KEVIN BATES/
Primary Examiner, Art Unit 2456

Continuation of 3. NOTE: regarding proposed amendment to claims 1, 17, 18, 29, 33-35, and 38, this amendment changes the scope of the invention and would require further consideration. In particular, among other amendments, amendment to claims 17, 18, 29, 33, and 34 is more than just incorporation of dependent claims, such as claims 16, 32, and 39.

Continuation of 12.: IDS dated 11/03/10 has been considered by making appropriate notations. See attached.

Continuation of 13. Other: Regarding the rejection of claims 1-39 under 35 USC 103(a), applicant's arguments are directed to claims as amended but otherwise substantially repeating the same arguments already addressed in the Final Office action.

Regarding the rejection of claims 38 and 39 under 35 USC 112, first paragraph, applicants propose to amend claim 38 by removing limitation not supported by the specification and cancel claim 39. If amendment was entered, amendment to claim 38 and cancelation of claim 39 would be sufficient to render the rejection moot.

Regarding the rejection of claims 1-37 under 35 USC 112, second paragraph, applicant's arguments have been fully considered. As to claims 1, 17, 33, and 34, proposed amendments, if entered, would be sufficient to overcome the rejection. As to claims 4-9, applicants failed to resolve the issue. Simply stating that "the obtaining step is comprised in the creating step" as argued at page 115 of the Remarks, does not constitute an amendment to affected claims to resolve ambiguity. As to claims 18-32, amending the claims to recite "an agent" as comprising "means plus function" recitations does not withdraw a requirement to have a structure corresponding to claimed "means" in every claim (independent and dependent) that has a "means" recitation. Therefore, the rejection is maintained.

As to any arguments not specifically addressed, they are the same as those discussed above.